



SUSPECTED ABUSE AND/OR NEGLECT OF A CONSUMER BY STAFF PROTOCOL

GUIDING PRINCIPLE

We are committed to a culture of recovery throughout our systems of care, in our interactions with one another, and with those persons and families who trust us with their care.

POLICY STATEMENT

The Department of Mental Health and Substance Abuse (DMHSA) shall provide a safe and humane environment for its consumers. DMHSA has a zero tolerance policy for the abuse and neglect of consumers, continually striving to ensure that consumers are free from abuse including physical, verbal, sexual, emotional, or psychological abuse and neglect.

DEFINITIONS

- **Consumer Abuse and Neglect:** Any incident of physical, sexual, emotional, psychological, or verbal abuse, consumer neglect/mistreatment or a financial/business relationship by or with a staff member that occurs during a consumer's inpatient or outpatient treatment or one (1) year after discharge from all services.
- **Physical Abuse:** A willful infliction of injury by a staff member, which results in physical harm (bodily pain, injury, impairment or disease) including, but not limited to, cruel punishment resulting in physical harm or pain or mental anguish, such as direct beatings, slapping, kicking, biting, choking, burning, sexual assault or molestation, or unreasonable physical restraint or confinement resulting in physical injury.
- **Verbal Abuse:** Use of any derogatory, threatening, derisive or demeaning language, whether in writing, oral or with gestures directed towards a consumer by a staff member. This includes the use of profane or obscene language.
- **Sexual Abuse:** Includes any sexual overture made to a consumer verbally or physically, irrespective of consumer's willingness to be involved in same.
- **Mental or Emotional Abuse:** Includes but is not limited to verbal assaults, insults, threats, intimidation, humiliation, harassment, isolation which provokes fear, agitation, confusion or severe depression.
- **Neglect/Mistreatment:** The failure or refusal of a staff member to provide for the physical, mental or emotional health and well-being of the consumer and includes but is not limited to:
 - (a) Failure to assist or provide personal hygiene for the consumer.
 - (b) Failure to provide adequate food, water, clothing or shelter.

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(c) Failure to provide medical care for the physical and mental health care needs of the consumer. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(d) Failure to protect the consumer from health and safety hazards.

(e) Action or inaction by a staff member which denies the consumer the prescribed care and treatment to which they are entitled.

(f) Action(s) by a staff member contrary to the prescribed treatment or service; or unauthorized removal or unauthorized denial of a consumer's personal possessions or normal comforts

(g) Unauthorized removal or unauthorized denial of a consumer's scheduled meals or snacks.

(h) Deliberate refusal to implement the multidisciplinary master treatment plan as designed by the consumer's treatment team.

(i) Failure to intervene or protect a consumer from abuse/mistreatment by another consumer or staff member.

- **Exceptions to the definition:** When staff members are following an established level and/or privilege system or an approved treatment plan that may include a systematic behavior modification program, the employee will not be considered to have neglected, mistreated or abused the consumer and when employees use appropriate therapeutic intervention techniques, employees will not be considered to have abused the consumer.

- **Financial/Business Relationships with a Consumer or Consumer's Family Member includes:**

(a) Any financial/business transaction with a consumer or consumer's family, including lending, borrowing, investing, or holding or consumer's funds

(b) Taking tips, gifts, or extra remuneration from a consumer or consumer's family member

(c) Accepting personal liability for consumer fees are prohibited

- **Staff Members:** Those individuals who are paid or unpaid who work with or relate to the consumers as an adjunct of staff including, but not limited to: therapists, counselors, social workers, psychiatrists, volunteers, secretaries, interns, trainees, consultants, psychologists, etc.

STANDARDS OF CARE

- The mistreatment, abuse and/or neglect of consumers will not be tolerated.
- All DMHSA employees are expected and required to report suspected abuse and/or neglect of consumers to their supervisor, immediately.
 - Failure to report suspected abuse and/or neglect may result in disciplinary action.
- According to the Department's Incident Reporting Protocol, all allegations made against a staff member that requires a report to Adult Protective Services (APS)

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and Child Protective Services (CPS) are considered major incidents and have additional reporting requirements.

- The Incident Reporting Protocol shall provide additional guidance for incidents that involve the suspected abuse and/or neglect of consumers.

PROTOCOL

Consumer Report of Abuse and/or Neglect:

- A request can be made, by or on behalf (public guardian, family, etc.) of a consumer, at any time to change placement and/or services, based on an assertion of inadequate services or abuse and/or neglect of a consumer by DMHSA staff members.
 - The Department shall take whatever steps are necessary to resolve the situation by addressing the failings in the current placement and/or service or the Department may develop an adequate and appropriate alternative placement, and/or service.
- Anytime a consumer makes a complaint regarding abuse and/or neglect by a staff member or another consumer, the staff member receiving the complaint shall ask the consumer to write down his/her complaint in as much detail as possible.
 - Staff may assist the consumer, as needed.
- The staff member shall report the consumer's complaint to his/her supervisor immediately.
- All other procedures below shall be completed.

Staff Who Suspects Abuse and/or Neglect of a Consumer by a Staff Member:

- Anytime a staff member suspects the abuse and/or neglect of a consumer by a staff member, he/she shall verbally report the incident to his/her supervisor, immediately.

Reporting to the Appropriate Agency (APS/CPS):

- The alleging staff member is responsible for reporting the incident to the appropriate agency (i.e., APS or CPS).
 - The Supervisor shall provide guidance, as needed.
- Following the verbal report to his/her supervisor, the staff member must make an verbal report/telephone call to the appropriate reporting agency (APS or CPS) and follow up by completing a written report on the appropriate APS or CPS reporting form within forty-eight (48) hours.
 - The form can be download as a PDF and completed electronically or it may be printed and handwritten.
- The written report must be hand delivered to the appropriate reporting agency (APS or CPS) within forty-eight (48) hours of the verbal/telephoned report.

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Incident Report:

- Additionally, the staff member must complete a written incident report on the Department's Incident Report form by the end of his/her shift, turn it in to his/her supervisor and attach a copy of the written APS/CPS report, as an addendum, once it is completed.

Supervisor Responsibility:

- The supervisor must immediately contact the Director and take immediate, appropriate action to ensure the involved consumer(s) is protected from any potential harm during an investigation, including placing staff on administrative leave, if appropriate.
- The supervisor of the staff member who has an allegation of suspected abuse and/or neglect against them shall follow the progressive disciplinary procedure, as necessary.

If Injuries Occur:

- A licensed physician or registered nurse shall perform a physical examination of the consumer as soon as possible if there are any injuries.
 - Color photographs of any injuries shall be taken and any potential evidence shall be secured.
 - The examination and taking of photos will take place with the consent of the consumer or with consent of the guardian if the person has a guardian.
 - Immediate examination without consent may be necessary when there is a reason to believe that a serious or life threatening injury has occurred.

Notification:

- The supervisor or his/her designee must notify the parent of a minor or the consumer's legal guardian of the facts regarding the alleged incident.
- The supervisor or his/her designee must notify law enforcement (Guam Police) if the incident is alleged sexual abuse or may involve criminal misconduct.

External Investigations:

- The Director or his/her designee must initiate a external investigation (i.e., APS, CPS, Guam Legal Services) within five (5) days of the reported incident but not longer than thirty (30) days unless it is documented that additional time is needed to complete the investigation.
- Upon completion of the external investigation, the supervisor shall notify the parent of a minor consumer or a consumer's legal guardian of the investigative findings, a summary of the facts and circumstances, and action taken.

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- The names of any employee or other consumers involved shall not be revealed.
- A copy of any reports/summaries generated by an outside agency must be attached to the original incident report as an addendum.

Internal Investigations:

- The Director must initiate an internal investigation. The internal investigation must be completed as soon as possible, but no longer than five (5) days after the request is made by the Director.
 - Refer to the Department's incident reporting protocol for additional guidance on how to carry out an internal investigation.

According to Guam Law:

Any person required to report a case of suspected consumer abuse and/or neglect who fails to report shall be liable for a fine of not more than \$500, except that for a second or subsequent offense, such person shall be guilty of a misdemeanor.

FORMS

- Incident Report form (electronic or hardcopy)
- Adult Protective Service Unit Referral Form (electronic or hardcopy)
- Child Abuse and Neglect Referral (Part 1) Form (electronic or hardcopy)

REFERENCES

- Guam's Mandatory Adult Protection Services (APS) Reporting Requirements According to 10 GCA CH.2
- Guam's Mandatory Child Protective Services (CPS) Reporting Requirements According to 19 GCA CH. 13
- TJC PC.3.10, RI.2.150
- Incident Reporting Protocol

APPROVED:



Wilfred Aflague
Director

Date:

